

## **TENTATIVE RULINGS for CIVIL LAW and MOTION**

### **March 3, 2010**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941

#### **TENTATIVE RULING**

**Case:** **Barr v. Regents of The University of California**  
**Case No. CV CV 08-2136**

**Hearing Date:** **March 3, 2010** **Department Fifteen** **9:00 a.m.**

Defendant Regents of the University of California's request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Defendant's motion for summary judgment or, in the alternative, summary adjudication is **GRANTED**. (Code Civ. Proc., § 437c.) Defendant has met its burden of showing that plaintiff's action for discrimination has no merit. Plaintiff failed to establish that circumstances exist that suggest the adverse employment action taken by Defendant was because of her membership in a protected class. (*Guz v. Bechtel National, Inc.* (2000) 24 Cal.4<sup>th</sup> 317, 354; Separate Statement of Undisputed Material Facts 1-55.)

If no hearing is requested, p is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.

#### **TENTATIVE RULING**

**Case:** **Ford Motor Credit Company v. Cummings**  
**Case No. CV CV 09-426**

**Hearing Date:** **March 3, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiff's unopposed motion to compel Sandra M. Cummings to respond to the plaintiff's special interrogatories and request for production of documents, sets no. one is **GRANTED**. (Code Civ. Proc., §§ 2030.290 and 2031.300.) Plaintiff shall serve counsel for the defendant with a copy of this order by no later than March 8, 2010. Defendant shall serve verified answers to the above discovery requests, without objections, and responsive documents **by no later than March 22, 2010.**

Plaintiff's unopposed motion to have the truth of the matters stated in its first set of request for admissions to Sandra M. Cummings deemed admitted is **GRANTED**. (Code Civ. Proc., § 2033.280, subd. (b).)

Plaintiff's unopposed request for monetary sanctions against Sandra M. Cummings is **GRANTED** in the amount of \$265.00. (Code Civ. Proc., § 2033.280, subd. (c); Cal. Rules of Court, rule 3.1348.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

#### **TENTATIVE RULING**

**Case:** Metzler v. Usufy  
Case No. CV CV 08-1566

**Hearing Date:** March 3, 2010 Department Fifteen 9:00 a.m.

The unopposed motion to lift stay of proceedings filed by the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank is **GRANTED**. (*Neman v. Commercial Capital Bank* (2009) 173 Cal.App.4th 645.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

#### **TENTATIVE RULING**

**Case:** Midland Funding LLC v. Bergman  
Case No. CV G 08-435

**Hearing Date:** March 3, 2010 Department Fifteen 9:00 a.m.

Defendant's motion to vacate the judgment is **DENIED WITHOUT PREJUDICE**. Defendant did not provide adequate notice of his motion. (Code Civ. Proc., § 1005, subd. (b).) The declaration supporting the defendant's motion is defective because it does not state the place of execution. (Code Civ. Proc., § 2015.5.) Defendant's motion does not meet the requirements of Code of Civil Procedure section 473.5, which appears to be the statutory basis for the defendant's motion. Defendant does not declare that he did not receive *actual notice* of the summons and complaint in time to defend the action. Defendant did not file a proposed answer. Defendant's declaration does not state facts showing that his lack of actual notice of the summons and complaint was not caused by his avoidance of service or inexcusable neglect. (Code Civ. Proc., § 473.5, subd. (b).) Because the Court denies the defendant's motion, it is not necessary to address the plaintiff's request for attorney's fees.

If the defendant renews his motion to set aside the entry of default and default judgment, he should state in his supporting memorandum of points and authority the legal authority supporting his request for relief.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.